

Ariel C. Calmes
Wyoming State Bar No. 7-4807
Assistant United States Attorney
District of Wyoming
P.O. Box 22211
Casper, WY 82602
(307) 261-5434
Ariel.calmes@usdoj.gov

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF WYOMING**

UNITED STATES OF AMERICA,
Plaintiff,
v.
MITCHELL X. BAKER,
Defendant.

Criminal No: L:23-PO-000135-KHR

**UNITED STATES' MOTION TO STRIKE MONTE BAKER'S REQUEST FOR THIRD
PARTY INTERVENOR STATUS, 2ND NOTICE AND MOTION TO DISMISS (ECF NO. 13)
AND FOR ORDER PROHIBITING FURTHER FRIVOLOUS FILINGS BY DEFENDANTS
OR MONTE BAKER**

The United States of America respectfully submits this Motion in response to Monte Baker's "Request for Third Party Intervenor Status"; "2nd Notice"; and "Motion to Dismiss with Extreme Prejudice" filed herein on September 11, 2023, in the above-captioned matters. (ECF No. 13.) (Hereinafter referred to as "Motion"). This Court should summarily strike the purported "Motion" as it is not a proper filing and was not submitted by either the Defendant acting pro se or a duly-licensed attorney on the Defendant's behalf, lacks legal merit, is incomprehensible, and it causes the government and this Court to expend time and resources needlessly. The filing is also not in conformance with this Court's Discovery and Scheduling Order entered herein. Further, it is respectfully requested that

this Court instruct the defendants, who have elected to proceed *pro se*, to comply with federal and local rules of practice or risk sanctions, to include contempt of court.

PROCEDURAL HISTORY

1. The Defendant has been charged by violation notice with two offenses; trespassing on the national elk refuge in violation of 50 CFR 26.21(a) and possession of antlers on the national elk refuge in violation of 50 CFR 26.22(a).

2. The matter is set for a bench trial in this Court to begin on September 18, 2023, at 9:00 A.M. Motions deadlines were set by this Court in its Discovery and Scheduling Order issued on June 20, 2023. In that Order all pretrial motions were required to be filed no later than fourteen (14) days prior to trial.

3. On September 11, 2023; one week prior to the trial scheduled in this matter, a third party, Monte Baker filed the following documents: “Request for Third Party Intervenor Status”; “2nd Notice”; and “Motion to Dismiss with Extreme Prejudice” (“Motion”). The United States of America files this motion in response.

ARGUMENT

The defendants’ pleadings are not timely; as they were not filed in accordance with this Court’s Discovery and Scheduling Order requiring all pretrial motions to be filed no later than fourteen (14) days prior to trial and for all Motions to Dismiss to be filed no later than thirty-five (35) days prior to trial. The Motions and documents filed on September 11, 2023; eight days prior to trial, do not conform to this Court’s filing deadlines and should be stricken from the record on those grounds alone.

Additionally, the filings fail to comport to the local rules and are filed by a non-attorney third party to the proceedings and are therefore improper. Many of the pages contain a red thumbprint apparently intended to represent the “flesh and blood sovereign citizen,” Monte Baker. Monte Baker is not a

Defendant or otherwise a party to this proceeding and has no standing to file documents in this case. The Motion should accordingly be stricken from the record.

The United States respectfully requests that this Court strike the filings offered by Monte Baker because Monte Baker is not the Defendant in the proceeding nor a licensed attorney permitted to practice law; the filings are incomprehensible, lack legal merit, and—to the extent the defendant is attempting to seek relief from this Court through a third party filing — these filings violate Local Rule 47.1 (which requires that a moving party “shall include in the motion a short, concise statement of the arguments and authorities in support of the motion”). In short, the filings are akin to the “. . . hodgepodge of unsupported assertions, irrelevant platitudes, and legalistic gibberish” typically seen in sovereign citizen and tax protest cases summarily disregarded by courts. *See Crain v. Commissioner*, 737 F.2d 1417, 1418 (5th Cir. 1984) (“We perceive no need to refute these arguments with somber reasoning and copious citation of precedent; to do so might suggest that these arguments have some colorable merit.”); *see also United States v. Ford*, 514 F.3d 1047, 1053 (10th Cir. 2008) (citation omitted) (the defendant’s “claims are nothing more than oft-repeated tax protestor arguments that have long been rejected by the federal courts as ‘patently frivolous’”); *United States v. Jagim*, 978 F.2d 1032, 1036 (8th Cir. 1992) (“These issues are completely without merit, patently frivolous, and will be rejected without expending any more of this Court’s resources on their discussion.”)

Finally, it is respectfully requested that this Court admonish all defendants and Monte Baker that even though they have exercised their constitutional right to proceed *pro se*, they must nonetheless comport themselves with applicable law and procedures and refrain from making frivolous filings or arguments. *See Faretta v. California*, 422 U.S. 806, 834 n. 46 (1975) (citation omitted) (noting that while a *pro se* defendant may present a defense in his own way, he “must also comply with relevant rules of procedural and substantive law”); *Lonsdale v. United States*, 919 F.2d

1440, 1448 (10th Cir. 1990) (imposing sanctions where taxpayers “simply refuse to accept the judgments of the courts” and noting “courts are not powerless in these circumstances and are not required to expend judicial resources endlessly entertaining repetitive arguments. Nor are opposing parties required to bear the burden of meritless litigation.”); *United States v. Gomez-Rosario*, 418 F.3d 90, 101 (1st Cir. 2005) (“Basic rules of courtroom protocol and procedure impose an obligation, both on counsel and on individuals acting as their own counsel, to comply with court rules and not file frivolous motions.”).

WHEREFORE the United States respectfully requests that the Court strike Monte Baker’s three filings offered in this case and order the Defendant to cease filing similarly based frivolous pleadings, and to conform their conduct with the ethical and legal standards required of parties appearing before this Court or risk additional potential civil and criminal penalties.

DATED this 13th day of September 2023.

Respectfully submitted,

NICHOLAS VASSALLO
United States Attorney

By: /s/ Ariel C. Calmes
ARIEL C. CALMES
Assistant United States Attorney

CERTIFICATE OF SERVICE

I hereby certify that on September 13, 2023, a true and correct copy of the foregoing motion was served upon the defendant by depositing same, postage prepaid, in the United States Mail addressed to:

Mitchell Baker
1210 Mickel Dr.
Dubois, WY 82513

/s/ Amanda R. Hudson

UNITED STATES ATTORNEY'S OFFICE